

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

EDDIE BRINKLEY §
v. § CIVIL ACTION NO. 5:17-CV-211
BOWIE COUNTY, TEXAS §

MEMORANDUM OPINION AND ORDER

The Court previously referred this petition for writ of habeas corpus to the Honorable Caroline M. Craven, United States Magistrate Judge. The Magistrate Judge has entered a Memorandum Opinion and Order Regarding Venue providing that this matter be transferred to the Western Division for the Eastern District of Arkansas. Docket Nos. 3 and 4. Petitioner has filed Objections to the Memorandum Opinion and Order. Docket No. 6.

The Magistrate Judge's Memorandum Opinion and Order involved a nondispositive matter. A District Judge may reconsider any such order where it is shown that the order is clearly erroneous or contrary to law. *Castillo v. Frank*, 70 F.3d 382, 385 (5th Cir. 1995); 28 U.S.C. § 636(b)(1)(A).

Petitioner is incarcerated pursuant to a judgment filed in Case Number 2013-0794 in the Sixth Judicial District, No. 4 Division of the Circuit Court of Pulaski County, Arkansas. Petitioner states he has been forcibly transferred from the custody of the Arkansas Department of Corrections to the Bowie County Correctional Center in Texarkana, Texas. Docket No. 1 at 2. He states this action was taken pursuant to an order from the director of the Arkansas Department of Corrections. *Id.* Petitioner states no charges have been filed against him in Texas and complains that his transfer to the Bowie County Correctional Center violates the orders of the Arkansas state court where he was convicted. *Id.* The Magistrate Judge concluded the petition should be transferred to the Eastern District of Arkansas because his incarceration is the result of his conviction in an Arkansas state court. Docket No. 3 at 2.

In his objections, Petitioner merely states he opposes the transfer but provides no specific justification for his objections. Docket No. 6.

After careful consideration, the Court is of the opinion that the Magistrate Judge's Memorandum Opinion and Order was not clearly erroneous or contrary to law. This Court and the Eastern District of Arkansas have concurrent jurisdiction over this petition.¹ As petitioner's incarceration in the Bowie County Correctional Center is due to his conviction in an Arkansas state court and is not the result of any process issued by a Texas state court, it would be more appropriate to have this petition adjudicated in the federal judicial district where a challenge to petitioner's Arkansas conviction would be asserted. The Magistrate Judge therefore correctly concluded this petition should be transferred. It is, therefore,

ORDERED that petitioner's objections (Docket No. 6) to the Memorandum Opinion and Order Regarding Venue are **OVERRULED**. It is further **ORDERED** this petition is **TRANSFERRED** to the Western Division for the Eastern District of Arkansas.

SIGNED this 9th day of January, 2018.

Robert W. Schroeder III
ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE

¹ Title 28 U.S.C. § 2241(d) provides that a habeas petition may be filed in either the federal judicial district where the petitioner was convicted or the judicial district where he is incarcerated.